

105TH CONGRESS  
1ST SESSION

# H. R. 2117

To amend the Internal Revenue Code of 1986 to exclude from gross income gain on the sale or exchange of farmland which by covenant is restricted to use as farmland and to exclude the value of such farmland from estate taxes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 8, 1997

Mr. PITTS introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to exclude from gross income gain on the sale or exchange of farmland which by covenant is restricted to use as farmland and to exclude the value of such farmland from estate taxes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Farm Preservation Act  
5       of 1997”.

1 **SEC. 2. EXCLUSION OF GAIN FROM SALE OF CERTAIN**  
 2 **FARMLAND.**

3 (a) GENERAL RULE.—Part III of subchapter B of  
 4 chapter 1 of the Internal Revenue Code of 1986 (relating  
 5 to items specifically excluded from gross income) is  
 6 amended by redesignating section 138 as section 139 and  
 7 by inserting after section 137 the following new section:

8 **“SEC. 138. SALES AND EXCHANGES OF FARMLAND THE USE**  
 9 **OF WHICH IS RESTRICTED TO FARMING.**

10 “(a) GENERAL RULE.—In the case of an operator of  
 11 farmland, gross income does not include gain from the sale  
 12 or exchange of farmland if there is in effect on the date  
 13 of such sale or exchange a qualified covenant which does  
 14 not permit any use of such farmland for any purpose other  
 15 than use as farmland.

16 “(b) DEFINITIONS.—For purposes of this section—  
 17 “(1) FARMLAND.—The term ‘farmland’ means  
 18 any real property—

19 “(A) which is located in the United States,  
 20 and

21 “(B) which is used as a farm for farming  
 22 purposes (within the meaning of section  
 23 2032A(e)).

24 “(2) QUALIFIED COVENANT.—The term ‘quali-  
 25 fied covenant’ means a covenant—

26 “(A) which may not be revoked,

1                   “(B) which, with respect to farmland to  
2                   which such covenant applies, is entered into by  
3                   all persons having any ownership interest in  
4                   such farmland, and

5                   “(C) which binds all future owners of the  
6                   farmland to which such covenant applies.

7           “(c) APPLICATION WITH PRINCIPAL RESIDENCES.—  
8   For purposes of this section, use as farmland includes use  
9   as the principal residence of the operator of such farm-  
10 land.

11           “(d) VERIFICATION OF COVENANT.—Subsection (a)  
12 shall not apply by reason of any covenant unless such per-  
13 son—

“(1) notifies (in such form and manner as the Secretary may by regulations prescribe) both the Secretary and the Secretary of Agriculture of the political subdivision of the State in which such covenant is recorded, and

19 “(2) submits to the Secretary a copy of such  
20 covenant.”

(b) CLERICAL AMENDMENT.—The table of sections for such part is amended by striking the last item and inserting the following new items:

“Sec. 138. Sales and exchanges of farmland the use of which is restricted to farming.

“Sec. 139. Cross references to other Acts.”

1 (c) EFFECTIVE DATE.—The amendments made by  
 2 this section shall apply to covenants first recorded after  
 3 December 31, 1996, and to sales and exchanges after such  
 4 date.

5 **SEC. 3. EXCLUSION FROM GROSS ESTATE OF FARMLAND**  
 6 **WHICH BY COVENANT IS RESTRICTED TO USE**  
 7 **AS FARMLAND.**

8 (a) IN GENERAL.—Part III of subchapter A of chap-  
 9 ter 11 of the Internal Revenue Code of 1986 (relating to  
 10 gross estate) is amended by inserting after section 2033  
 11 the following new section:

12 **“SEC. 2033A. EXCLUSION OF FARMLAND WHICH BY COV-**  
 13 **ENANT IS RESTRICTED TO USE AS FARM-**  
 14 **LAND.**

15 “(a) IN GENERAL.—In the case of an estate of a de-  
 16 cedent to which this section applies, the value of the gross  
 17 estate shall not include the adjusted value of farmland in-  
 18 cluded in the estate if there is in effect on the date of  
 19 death a qualified covenant which does not permit any use  
 20 of such farmland for any purpose other than use as farm-  
 21 land.

22 “(b) ESTATES TO WHICH SECTION APPLIES.—This  
 23 section shall apply to an estate if—

1           “(1) the decedent was (at the date of the dece-  
2           dent’s death) a citizen or resident of the United  
3           States, and

4           “(2) during the 8-year period ending on the  
5           date of the decedent’s death there have been periods  
6           aggregating 5 years or more during which—

7           “(A) the farmland were owned by the dece-  
8           dent or a member of the decedent’s family, and

9           “(B) there was material participation  
10          (within the meaning of section 2032A(e)(6)) by  
11          the decedent or a member of the decedent’s  
12          family in the operation of the farmland.

13          “(c) DEFINITIONS.—For purposes of this section—

14          “(1) FARMLAND.—The term ‘farmland’ means  
15          any real property—

16                 “(A) which is located in the United States,  
17                 and

18                 “(B) which is used as a farm for farming  
19                 purposes (within the meaning of section  
20                 2032A(e)).

21          “(2) QUALIFIED COVENANT.—The term ‘quali-  
22          fied covenant’ means a covenant—

23                 “(A) which may not be revoked,

24                 “(B) which, with respect to farmland to  
25                 which such covenant applies, is entered into by

1 all persons having any ownership interest in  
 2 such farmland, and

3 “(C) which binds all future owners of the  
 4 farmland to which such covenant applies.

5 “(3) ADJUSTED VALUE.—The term ‘adjusted  
 6 value’ means the value of farmland for purposes of  
 7 this chapter (determined without regard to this sec-  
 8 tion), reduced by the amount deductible under para-  
 9 graph (3) or (4) of section 2053(a).

10 “(d) APPLICATION WITH PRINCIPAL RESIDENCES.—  
 11 For purposes of this section, use as farmland includes use  
 12 as the principal residence of the operator of such farm-  
 13 land.

14 “(e) VERIFICATION OF COVENANT.—Subsection (a)  
 15 shall not apply by reason of any covenant unless such per-  
 16 son—

17 “(1) notifies (in such form and manner as the  
 18 Secretary may by regulations prescribe) both the  
 19 Secretary and the Secretary of Agriculture of the  
 20 political subdivision of the State in which such cov-  
 21 enant is recorded, and

22 “(2) submits to the Secretary a copy of such  
 23 covenant.”

24 (b) CLERICAL AMENDMENT.—The table of sections  
 25 for part III of subchapter A of chapter 11 of such Code

1 is amended by inserting after the item relating to section  
2 2033 the following new item:

“Sec. 2033A. Exclusion of farmland which by covenant is re-  
stricted to use as farmland.”

3 (c) EFFECTIVE DATE.—The amendments made by  
4 this section shall apply to covenants first recorded after  
5 December 31, 1996, with respect to estates of decedents  
6 dying after such date.

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